

AO 91 (Rev. 11/11) Criminal Complaint

AUSA Kavitha J. Babu (312) 353-1980

AUSA Nicholas J. Eichenseer (312) 353-1412

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

ERNESTO GODINEZ, a/k/a "Ernie"

UNDER SEAL

CASE NUMBER:

18CR 278**CRIMINAL COMPLAINT MAGISTRATE JUDGE GILBERT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about May 4, 2018, at Chicago, Illinois, in the Northern District of Illinois, Eastern Division, the defendant(s) violated:

Code Section

18 U.S.C. § 111(a) and (b)

FILED

MAY - 7 2018

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

Offense Description

forcibly assaulted, resisted, opposed, impeded, intimidated, and interfered with person designated in Title 18, United States Code, Section 1114, namely, a special agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives, while they were engaged in the performance of their official duties, and in the commission of such acts used a deadly and dangerous weapon

This criminal complaint is based upon these facts:

X Continued on the attached sheet.

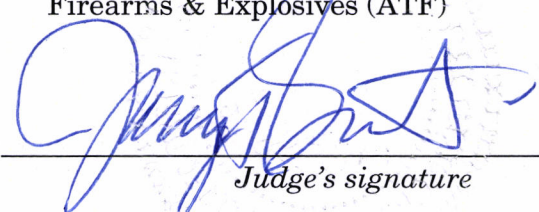
Sworn to before me and signed in my presence.

Date: May 5, 2018

City and state: Chicago, Illinois


BEAU M. JACOBSEN

Special Agent, Bureau of Alcohol, Tobacco,
Firearms & Explosives (ATF)


Judge's signature

JEFFREY T. GILBERT, U.S. Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SS

AFFIDAVIT

I, BEAU M. JACOBSEN, being duly sworn, state as follows:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms & Explosives, and have been so employed since in or around March 2014. Prior to this, I was a police officer with the Aurora and Lakewood Police Departments in Colorado. I am currently assigned to Group VI of ATF's Chicago Field Division and my current responsibilities include the investigation of firearms trafficking, illegal firearms possession, and narcotics trafficking.

2. As part of my regular duties as a Special Agent, I investigate criminal violations of the federal firearms laws, including Title 18, United States Code, Sections 922 and 924, as well as federal narcotics laws, including Title 21, United States Code, Sections 841(a)(1) and 846. I have received training regarding, among other things, violations of federal firearms and narcotics laws at the Federal Law Enforcement Training Center.

3. This Affidavit is submitted in support of a criminal complaint alleging that ERNESTO GODINEZ, also known as "Ernie," has violated 18 U.S.C. § 111(a) and (b). This Affidavit is based on my personal knowledge, experience and training, information provided to me by other law enforcement agents and the experience and training of those agents, and physical surveillance. Because this Affidavit is being submitted for the limited purpose of establishing probable cause in support of a

criminal complaint charging GODINEZ with having forcibly assaulted, resisted, opposed, impeded, intimidated, and interfered with a person designated in Title 18, United States Code, Section 1114, namely, a special agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives, while they were engaged in the performance of their official duties, and in the commission of such acts used a deadly and dangerous weapon, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

FACTS SUPPORTING PROBABLE CAUSE

4. In summary: as described below, at approximately 3:18 a.m. on May 4, 2018, a plainclothes ATF agent was shot in the face while conducting a covert law enforcement operation in the area of 44th and Hermitage in Chicago. According to two different surveillance cameras near the scene, GODINEZ exited a house at 4345 S. Wood Street, Chicago, Illinois¹ (the "GODINEZ residence") at approximately 3:16 a.m., walked across the alley to an area on the 4300 block of Hermitage where shell casings were later recovered, and, at approximately 3:18 a.m., right after shots were detected in the area, GODINEZ ran back across the alley and back into the GODINEZ residence.

¹ Law enforcement identified 4345 S. Wood Street as the GODINEZ residence based on the following: (1) it is the address listed on GODINEZ's driver's license, according to Secretary of State records, (2) a 2018 Chicago police contact card for GODINEZ indicates that GODINEZ reported his residence as the GODINEZ residence, and (3) utility records list GODINEZ's mother as the name on the account for the GODINEZ residence.

Background

5. Early in the morning of May 4, 2018, undercover law enforcement agents were covertly replacing a court-approved tracking device on a vehicle on the 4400 block of South Hermitage. An advance team of law enforcement drove north down the 4300 block of S. Wood (one block west of Hermitage, as shown on the map below) and then south on the 4300 block of S. Hermitage shortly before the covert replacement operation began to make sure the area was clear of civilians who might interfere with the covert operation or the safety of the agents. During that drive through, the advance team agents did not see any civilians in the vicinity of the vehicle on the 4400 block of South Hermitage and communicated to the undercover law enforcement agents tasked with covertly replacing a court-approved tracking device that it was safe to proceed.

6. One of the ATF agents tasked with replacing the tracking device was walking southbound near the intersection of 44th and South Hermitage when, at 3:18 a.m., he was shot in the face.

7. There were at least three cameras that appear to have captured the events in the area of 44th and Hermitage at the time of the shooting: a law enforcement surveillance camera in the area of 44th and Wood, a private surveillance camera in the alley (shown in the map below) between the 4300 blocks of Wood and Hermitage, and a Police Observational Device or POD camera in the area of 4358 South Hermitage (the northwest corner of 44th and Hermitage). The footage is described in more detail below, and the map below shows the approximate locations of residences and/or areas discussed below:



The Shooting of an ATF Agent

8. On May 4, 2018, at approximately 2:59 a.m., according to law enforcement surveillance footage, a stocky male with what appears to be long hair (consistent with the description of GODINEZ), wearing dark shorts and a dark shirt² exited the GODINEZ residence and entered and sat in a white Kia SUV. Law enforcement conducting surveillance previously identified GODINEZ driving a white Kia.³ Based on my familiarity with the investigation, including the surveillance

² According to law enforcement surveillance footage, on May 3, 2018, at approximately 8:30 a.m. and again at 2:13 p.m., GODINEZ, whom law enforcement identified based on a comparison to prior booking photos, was wearing dark shorts and a dark t-shirt.

³ According to law enforcement surveillance footage in the area of the GODNINEZ residence, on or about March 27, 2018, at approximately 7:16 p.m., a man matching GODINEZ's

footage described above and below, I believe the individual in the dark shorts and dark shirt depicted in the footage is GODINEZ.

9. At approximately 3:14 a.m., according to law enforcement surveillance footage and based on my discussions with other law enforcement agents, an advance team of law enforcement drove north on S. Wood Street past the GODINEZ residence to make sure there were no civilians present and surveilled the area near 44th and Hermitage generally. Further, based on my discussions with other law enforcement agents, the advance team of law enforcement agents drove north down the 4300 block of S. Wood and then south on the 4300 block of S. Hermitage shortly before the covert operation to replace a court approved tracking device on a vehicle on the 4400 block of S. Hermitage began. According to law enforcement officers, the advance team agents did not see any civilians in the nearby vicinity of the vehicle on the 4400 block of S. Hermitage.

10. At approximately 3:15 a.m., according to law enforcement surveillance footage, GODINEZ exited the white Kia reentered the GODINEZ residence. About a minute later, at approximately 3:16 a.m., GODINEZ again left the GODINEZ residence and walked north on S. Wood Street a few houses before he turned east and headed down a gangway. At that point he was headed towards the alley (shown on the map above) between the 4300 blocks of Wood and Hermitage.

description got into the driver's seat of a white Kia SUV in front of the GODINEZ residence and drove away.

11. According to private security video footage in that same alley, GODINEZ walked east across the alley towards the 4300 block of S. Hermitage.⁴

12. At approximately 3:18 a.m., according to a Shot Spotter sensor array in the area of 4400 South Hermitage, a system used by law enforcement to identify the time and location of gun shots, and law enforcement at the scene, approximately seven shots were fired. At that time, an undercover ATF agent involved in the tracker replacement operation was on foot when he was shot in the face near the intersection of 44th and Hermitage (the south end of the 4300 Hermitage block).

13. According to law enforcement at the scene, five shell casings were found in the area of 4330 South Hermitage, which is east and across the alley from the GODINEZ residence. According to law enforcement, a bullet was recovered in a tree between the location where the ATF agent was shot and the location near 4330 South Hermitage where the shell casings were recovered, indicating that the shot that struck the ATF agent came from the direction of 4330 South Hermitage.

14. According to a police observational device or "POD" camera footage from 44th and Hermitage and based on law enforcement at the scene, it appears that law enforcement officers returned fire from near 44th and Hermitage.

15. According to the private security video in the alley between the 4300 block of S. Hermitage and the 4300 block of S. Wood, approximately a minute and a

⁴ The time stamp on this private video footage is approximately 3:19 a.m., but based on my review of other surveillance footage and familiarity with this investigation, I believe the private security footage of GODINEZ continuing his eastbound walk from Wood to Hermitage is consistent the law enforcement surveillance footage described above.

half after walking east across through the alley, GODINEZ ran west across the alley back towards the 4300 block of S. Wood Street. I believe the private security footage shows GODINEZ running westbound from Hermitage to Wood at approximately 3:18 a.m.

16. Moments later, at approximately 3:18 a.m., law enforcement surveillance footage shows GODINEZ running south down the 4300 block of S. Wood and back into the GODINEZ residence. As discussed above, I believe this footage shows GODINEZ after he emerged from the alley where he was running west away from the 4300 block of South Hermitage.

17. At approximately 3:22 a.m., law enforcement surveillance footage shows GODINEZ exiting the GODINEZ residence, wiping his face, and holding what appears to be a cellphone. At approximately 3:23 a.m., the footage shows GODINEZ leaving the GODINEZ residence and walking north on Wood St. before disappearing out of view. At approximately 3:24 a.m., GODINEZ reappears on the footage and walked south towards the GODINEZ residence, where an unknown dark colored vehicle appeared to pick up GODINEZ.


18. Throughout the time period described above, the law enforcement and private surveillance footage reviewed by law enforcement does not depict any civilians in the vicinity of the shooting other than the individual identified as GODINEZ. Likewise, prior to reacting to the shots fired, law enforcement agents in the vicinity of the operation did not see any other civilians.

19. Based on my review of all the surveillance footage described above, and my familiarity with this investigation, GODINEZ was the only individual seen in the area of the shooting, and at the approximate time of the shooting, who was not a law enforcement agent.

CONCLUSION

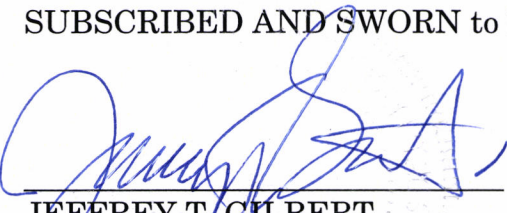
20. Based on the foregoing, I believe there is probable cause to believe that, on or about May 4, 2018, defendant ERNEST GODINEZ forcibly assaulted, resisted, opposed, impeded, intimidated, and interfered with a person designated in Title 18, United States Code, Section 1114, namely, special agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives, while they were engaged in the performance of their official duties, and in the commission of such acts used a deadly and dangerous weapon, in violation of Title 18, United States Code, Section 111(a) and (b).

FURTHER AFFIANT SAYETH NOT.



BEAU M. JACOBSEN
Special Agent, Bureau of Alcohol, Tobacco,
Firearms & Explosives

SUBSCRIBED AND SWORN to before me on May 5, 2018.



JEFFREY T. GILBERT
United States Magistrate Judge